IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 9423 of 2007(V)

PETITIONER:

H.NISSAM, LINEMAN GRADE-I,
UNDER ORDERS OF TRANSFER FROM ELECTRICAL SECTION,
KERALA STATE ELECTRICITY BOARD, KILIMANOOR,
THIRUVANANTHAPURAM DISTRICT TO GENERATION CIRCLE,
THRISSUR.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.PETER JOSE CHRISTO
SRI.K.A.BALAN

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM, PATTOM P.O.,
THRUVANANTHAPURAM-4, REPRESENTED BY ITS
SECRETARY.

2. CHAIRMAN,
KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM, PATTOM P.O.,
THIRUVANANTHAPURAM-4.

3. THE CHIEF ENGINEER (HRM),
KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM, PATTOM P.O.,
THIRUVANANTHAPURAM-4.

4. THE DEPUTY CHIEF ENGINEER,
GENERATION CIRCLE,
KERALA STATE ELECTRICITY BOARD,
GENERAL CIRCLE, THRISSUR.

5. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, KERALA STATE ELECTRICITY
BOARD, ELECTRICAL DIVISION, ATTINGAL,
THIRUVANANTHAPURAM DISTRICT.

BY S.C. MR. K.S. ANIL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C).No. 9423 OF 2007 V

Dated this the 28th March, 2007.

JUDGMENT

The petitioner is working as Lineman Gr.I, Electrical Section, Kilimanoor. He was served with a relieving order, copy of which has been produced as Ext.P11. Subsequently, Ext.P12 transfer order also was served on the petitioner and he has produced the same along with I.A.4827/2007 praying for amending the writ petition. Ext.P12 says that the transfer of the petitioner was ordered in the exigencies of service and in public interest.

2. Counsel for the petitioner submits that the words "in the exigency of service and in public interest" have been mechanically incorporated in Ext.P12, and in fact, no public interest is served by transferring the petitioner who is a physically handicapped person consequent to a road accident happened on 14.9.1998. It is contended that the physical incapacity of the petitioner is a fact well-known to the officers under whom the petitioner had worked. Counsel submits that the petitioner cannot undertake the strenuous journey or move freely from one place to another without the help of another person and the respondents ought not to have put such a person to difficulty by issuing an order in the nature of Ext.P12. Counsel submits

that in matters of transfers and postings, the respondent-Board has issued orders after negotiations with the recognized trade unions and Ext.P10 is the copy of order dated 13.5.1988 wherein it is stated inter alia as follows:-

> "e) Handicapped employees as also employees who have suffered permanent partial disablement due to accidents will be given protection from transfer.
>
> Note: In the case of the above categories of employees whose handicap or permanent partial disablement due to accidents is obvious, normally no medical certificate will be insisted upon. However, in doubtful cases, certificates from Medical Board can be insisted. All other cases seeking protection from transfer on medical grounds will be decided and disposed of by the Chief Engineer, Electricity, on the basis of the Medical Certificates obtained from the concerned competent medical board."

3. It is the grievance of the petitioner that he has not been given the protection of the above clause.

4. Counsel for the Board submits that the petitioner has filed representation before the third respondent-Chief Engineer and that the request made by the petitioner will be considered by the third respondent and appropriate decision taken.

5. Having regard to all facts and circumstances, I feel that the third respondent shall consider Ext.P13 in the light of Ext.P10 and the medical certificate produced by the petitioner (Exts.P1 to P9) and take appropriate decision as early as possible, in any event, within three

weeks from the date of receipt of a copy of the judgment. Writ petition is disposed of accordingly.

The petitioner shall produce a copy of the judgment before the third respondent for information and action.

K.K.DENESAN
Judge

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